

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**JAMES FARRIS**

Petitioner,

**v.**

**CIVIL ACTION NO.: 3:18-CV-68  
(GROH)**

**MICHAEL MARTIN, Warden,**

Respondent.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Pending before the Court is the Report and Recommendation ("R&R") of United States Magistrate Judge Robert W. Trumble. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 18] on August 22, 2018. In his R&R, Magistrate Judge Trumble recommends that the Petitioner's § 2254 petition be dismissed without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a *de novo* review of the magistrate judge's findings where objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a Petitioner's right to appeal this Court's Order. 28.U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91,

94 (4th Cir. 1984).

Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of service. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted by the *pro se* Petitioner on August 27, 2018. ECF No. 20. The Petitioner filed his objections on September 9, 2018. ECF Nos. 21, 22 and 23. Accordingly, this Court will review the portions of the R&R to which the Petitioner objects *de novo*. The Court will review the remainder of the R&R for clear error.

Magistrate Judge Trumble recommends that the Petitioner's § 2254 petition be dismissed because it qualifies as a second or successive § 2254 action. Furthermore, the Petitioner did not obtain authorization to file a second or successive petition as required by 28 U.S.C. § 2244(b)(2). Accordingly, the magistrate judge recommended that the action be dismissed without prejudice for lack of jurisdiction. The Petitioner does not object to the finding that his petition is second or successive. Additionally, he does not contest that he has not received authorization from the Fourth Circuit Court of Appeals to file a second or successive petition.

Therefore, upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 18] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. The Petitioner has not obtained authorization from the Fourth Circuit Court of Appeals to file his successive § 2254 motion in this Court. Therefore, the Petitioner's § 2254 petition is **DISMISSED WITHOUT PREJUDICE**.

This matter is **ORDERED STRICKEN** from the Court's active docket.

The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Petitioner by

certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

**DATED:** September 11, 2018



GINA M. GROH  
CHIEF UNITED STATES DISTRICT JUDGE